

REGION 6 EXECUTIVE SUMMARY

TOPIC: Falcon Refinery Status

DATE: 3/26/13

CONTACT: Brian Mueller, Gary Moore, Bob Werner, Gloria Moran, Ken Shewmake

PURPOSE/ACTION NEEDED: Status Update

DEADLINE DATE: N/A

BACKGROUND:

- Jun 2004: Removal/Remedial AOCs issued to National Oil Recovery Corporation \ (NORCO). Remedial AOC for Falcon Refinery as a Superfund Alternative Site.
- Feb 2010: Superior Crude Gathering, Inc. (Site's current lessee) had a large oil spill at the Site (spill cleaned up by Superior).
- Mar 2011: Work Takeover for default of Removal/Remedial Orders.
- Apr 2011: EPA received \$1,000,000 from NORCO's two letters of Credit.
- Sep 2011: Site was listed on the NPL
- Feb 2012: NORCO sells the Falcon Refinery Site to Lazarus Texas Refinery I, LLC (LTRI). Letter agreement signed by John Carroll, Director of LTRI, documents that LTRI agrees to assume and be solely responsible for costs, expenses and penalties relating to NORCO's two Removal/Remedial AOCs.
- Dec 2012: Superior had a second oil spill at the Site (spill cleaned up by Superior).

Removal Action

- Aug 2003: Action Memo for Oversight Costs Signed to be included in AOC (\$99,993).
- May 2011: Agreed Order for NORCO to resume Removal Action.

Remedial Action:

- Aug 2007: NORCO conducts RI Sampling.
- Mar 2012: EPA sent letter to NORCO demanding payment of \$209,036.12 to comply with RI/FS order.
- Sep 2012: EPA Cincinnati sends notice of non-compliance letter to NORCO for failure to pay past due amount of \$209,036.12.
- Sep 2012: RI/FS Task Order issued to RACS Contractor (\$500K need \$1.2M).
- Feb 2013: Site Management Plan, QAPP, FSP approved for RI/FS.

CURRENT STATUS:

Removal Action:

- NORCO/LTRI has stopped removal activities due to funding issues.
- During Mar 2013 OSC received information that John Carroll is attempting to obtain a loan. OSC believes Carroll plans to use loan proceeds to comply with the Removal AOC issued to NORCO.
- OSC is encouraging LTRI to meet end of calendar year completion.

Remedial Action:

- Current funding not sufficient to address the currently identified needs for the RI.
- RPM is reviewing data to identify any additional cost savings to allow the RI to be completed in a timely and efficient manner.
- Have expended \$62,186 of \$500,000 obligated to Task Order # 0088.
- Have requested initial pipeline funds (\$250,000) to complete RI/FS
- Reviewing existing data with Risk Assessors to determine if sampling effort should be reduced Requested Houston Lab and CLP program conduct analytical work for RI/FS.
- Sampling/field work to be scheduled with contractor after data review is completed and Houston Lab CLP responds to request decrease the funding necessary to complete the RI/FS for analytical work. Expect to be able to do field work in June-August timeframe.

Enforcement:

- 104(e) letter to NORCO in concurrence. Letter requests NORCO provide the EPA with information about its current financial status (ability to pay) and advisement of its intent to pay \$209,036.12 to the EPA to replenish the Special Account #2, Falcon Refinery Superfund Site 06MC in order to comply with NORCO's RI/FS AOC.
- 104(e) letter to LTRI in concurrence. Letter requests LTRI advise the EPA of its intent to be responsible for NORCO's costs, expenses and penalties relating to the Removal/Remedial AOCs issued to NORCO, advise the EPA of its relations to its numerous related business entities, and advise the EPA concerning its possible status as a bona fide prospective purchaser (BFPP).

ENVIRONMENTAL/PUBLIC HEALTH CONCERNS:

- The current health concerns are associated with the potential for release of hazardous substances into the environment which could impact public health and wetlands.

TECHNICAL CONCERNS:

- Removal Action – PRP's ability to fund and complete the removal action.
- Remedial Program – EPA's ability to fund and complete the Remedial Investigation and subsequent Remedial Activities.

REGULATORY/LEGAL REQUIREMENTS:

- No issues of concern.

COMMUNITY CONCERNS:

- No issues of concern.
- The EPA will conduct a public meeting/availability session with the community prior to conduct of EPA funded RI Activities.

RECOMMENDATIONS:

- Removal Program is closely evaluating the bank funding being sought by the PRP to complete the removal activities.
- Remedial Program requires additional funding to successfully complete a comprehensive RI in a timely manner.